

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MOHAMMED BOUHAJRAH,

Plaintiff,

-v-

18-CV-11391 (VEC)

HILL DELI GROCERY CORP., AZAAL DELI  
GROCERY CORP., ANA DELI GROCERY CORP.,  
AND NASSER ALMASMARY,

Defendants.

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on September 1, 2020, Plaintiff submitted proposed findings of fact and conclusions of law arguing that Defendant delis were a joint employer whose combined earnings were in excess of \$500,000 in 2017, Dkt. 72;

WHEREAS on October 23, 2020, the parties appeared at a telephone conference, where Plaintiff conceded that his ability to prove the jurisdictional requirement that the employer had revenues in excess of \$500,000 per year is dependent on the three Defendant corporations being a “joint employer” under the Fair Labor Standards Act;

WHEREAS on October 23, 2020, this Court granted Defendants leave to file a Motion for Summary Judgment “limited to the question of whether there is a material question of fact that the three Defendant corporations were a joint employer,” Dkt. 78; and

WHEREAS on November 6, 2020, Defendant Nasser Almasmary filed a Motion to Dismiss that did not address the question of whether the three Defendant corporations were a joint employer, Dkt. 79;

IT IS HEREBY ORDERED that Defendant Almasmary’s Motion to Dismiss is STRICKEN.

The Court did not grant leave to Defendant Almasmary to file a Motion to Dismiss and the motion

that was filed did not address the issue identified by the Court in its October 23, 2020 Order. *See* Dkt. 78.

**IT IS HEREBY ORDERED** that by no later than **Wednesday, November 11, 2020**,

Defendants may file a Motion for Summary Judgement limited to the question of whether there is a material question of fact that the three Defendant corporations were a joint employer under the Fair Labor Standards Act. The Motion for Summary Judgment must meet all the requirements of Federal Rule of Civil Procedure 56, Local Civil Rule 56.1, and this Court's Individual Practice Rule 4H, including the filing of a 56.1 Statement alongside the Memorandum of Law.

**IT IS FURTHER ORDERED** that Plaintiff's response in opposition is due no later than **Wednesday, November 25, 2020**. Defendants' reply in support is due no later than **Monday, November 30, 2020**.

The Court reminds the parties that the bench trial is scheduled to begin on Monday, December 7, 2020, at 10:00 A.M. The final pretrial conference is scheduled for Tuesday, December 1, 2020, at 3:30 P.M. At the pretrial conference, the parties must be ready to present a mutually agreeable interpreter to be available to translate for Mr. Hadash as needed as well as a proposal for Mr. Hadash to testify remotely, should he not meet the SDNY Courthouse entry rules in time for trial. The proposal should include the desired technological platform and method for introducing evidence as exhibits. Both the bench trial and the final pretrial conference will be held in person at the Thurgood Marshall United States Courthouse, located at 40 Foley Square, New York, New York 10007. Per the Southern District of New York ("SDNY") COVID-19 Courthouse Entry Program, any person who appears at any SDNY courthouse must complete a questionnaire and have his or her temperature taken. Only those individuals who meet the entry requirements

established by the questionnaire, including that they have not traveled to a listed state or country for the prior 14 days, will be permitted entry. Please see the enclosed instructions.

**SO ORDERED.**

**Date: November 9, 2020**  
**New York, New York**

  

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**VALERIE CAPRONI**  
**United States District Judge**

## **Instructions for Courthouse Entry**

All members of the public, including attorneys, appearing at a Southern District of New York courthouse must complete a questionnaire and have their temperature taken before being allowed entry into that courthouse.

On the day you are due to arrive at the courthouse, click on the following weblink to begin the enrollment process. Follow the instructions and fill out the questionnaire. If your answers meet the requirements for entry, you will be sent a QR code to be used at the SDNY entry device at the courthouse entrance.

Weblink: <https://app.certify.me/SDNYPublic>

Note: If you do not have a mobile phone or mobile phone number, you must complete the questionnaire and temperature screening at an entry device at the courthouse.